IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

COMPANY PETITION NO.1202 OF 1999

M/s.Ambe Ferro Metal Processors Pvt.Ltd. Petitioner

vs

M/s.Dharti Builders & Developers Pvt.Ltd. Respondent-Company

Mr.Manoj Dalvi i/b.M/s.Banatwala & Co. for the petitioner.

Mr.Dhaval Mehta i/b.M/s.Jhangiani Narula & Associates for the respondent company.

CORAM : ANOOP V. MOHTA,J.

DATED : 6th July, 2007

ORAL JUDGMENT

By the present petition, the provisions of Sections 433, 434 and 439 of the Companies Act, 1956 have been invoked by the petitioner against the company, as inspite of the statutory notice dated 22.9.1998 which was duly served, there was no denial and/or resistance to the demand of amount of Rs.2,26,827/- with interest.

2. The amount due and as liability remained, inspite of repeated communications, the petitioner had made out a case as contemplated under the provisions of the Companies Act as referred above. The petitioner has filed this petition on 23.9.1999 which was duly served. There is affidavit of service proving service of

petition on 8.2.2000 on record.

3. By order dated 8.12.2000 this Court therefore in view of the fact that there was no reply to the statutory notice and to the petition, admitted the petition and fixed for hearing.

4. After due compliance including affidavit of service of notice of admission of petition dated 30.3.2001, the matter is now listed for final disposal.

5. The contents of the statutory notice as well as the petition remained uncontroverted. In the result, the petitioner has made out a case in view of the uncontroverted averments made in the petition.

6. The petition is therefore allowed in terms of prayers (a) and (b).

> a) the M/s.Dharti Builders & Developers Private Ltd. abovenamed company be wound up by an order and under the directions of this Hon'ble Court under the provisions of the companies Act, 1956.
>
> b) the Official Liquidator, High Court, Bombay or some other fit and proper person be appointed as the Liquidator of the Company under the provisions of the Companies Act, 1956 to take charge of the said company and conduct its affairs in the course of winding up and distribute its assets in accordance with law.

7. The parties to take steps as per the law.

8. The learned counsel for the company makes a request for stay and operation of the order. Considering the facts and circumstances of the case and in view of the uncontroverted position on record, there is no case made out for stay as prayed. The oral application for stay is therefore rejected.

[ANOOP V. MOHTA,J.]